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Attorneys for Plaintiffs, TOMAS BARRERA, SR., individually and as a Personal Representative of THE ESTATE OF TOMAS BARRERA, JR.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARIA LAZOS, et al,

Plaintiff,

vs.

CITY OF OXNARD, et al,

Defendants.

TOMAS BARRERA, SR.

Plaintiff,

vs.

CITY OF OXNARD, et al,

Defendants.

Case No. CV 08-02987 RGK (SHx)

PLAINTIFFS' MOTION IN LIMINE
NO. 4 TO EXCLUDE ANY MENTION
OF A SYRINGE FOUND IN
DECEDENT'S CLOTHES

Date: August 11, 2009
Time: 9:00 a.m.
Courtroom: 850

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Plaintiffs, MARIA LAZOS and TOMAS BARRERA, SR., individually and as representatives of the ESTATE OF TOMAS BARRERA, hereby move this Court for an order excluding any and all evidence, testimony, references to testimony/evidence or argument, relating to a syringe found in decedent's clothes after he was shot.


This motion is made under Fed. R. Ev. 401, 402 and 403, and is based upon the ground that the evidence is irrelevant and that its probative value is substantially

1 outweighed by the danger of undue prejudice to Plaintiff.

2 This motion is further based on the attached Memorandum of Points and
3 Authorities, the pleadings and papers on file in this action and upon such of argument
4 and evidence as may be presented prior to or at the hearing of this motion.


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6 Dated: June 23, 2009

LAW OFFICES OF GREGORY A. YATES, P.C.

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9 GREGORY A. YATES
10 Co-Counsel for Plaintiffs,
11 TOMAS BARRERA, SR., individually and as a
12 Personal Representative of THE ESTATE OF
13 TOMAS BARRERA, JR.

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15 Dated: June 26, 2009

LAW OFFICES OF KIM SCOVIS

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18 JENNY SCOVIS
19 Counsel for Plaintiff,
20 MARIA LAZOS, individually and as a Personal
21 Representative of THE ESTATE OF TOMAS
22 BARRERA, JR.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

**EVIDENCE OF THE SYRINGE FOUND IN DECEDENT'S CLOTHES
SHOULD BE EXCLUDED AS BEING NOT RELEVANT AND HIGHLY
PREJUDICIAL**

There is no evidence to suggest that the decedent was under the influence prior to being shot. More importantly, there is no evidence that drug use was a factor in the decision to shoot decedent. Admitting evidence of a syringe found in decedent's clothes will not prove or disprove any fact necessary to this action and will add absolutely nothing significant or valuable to the evidence. F.R.E. 401 and 402.

While admitting such evidence has no probative value, it would be highly prejudicial, as it would depict decedent as a drug user and will arouse the jury's prejudice, hostility and antipathy. *See United States v. Blackstone*, 56 F.3d 1143, 1145-46 (9th Cir. 1995) (trial court abused its discretion by admitting evidence of narcotics recipes that were found in the defendant's vehicle and expert testimony regarding drug-trafficking, because, to the extent that the evidence was relevant, it was unfairly prejudicial and highly inflammatory); *Lucero v. Donovan*, 354 F.2d 16, 22 (9th Cir.1965 (trial court erred by admitting expert testimony that plaintiff was a narcotics user based upon a scar on her arm, because the evidence was not proper for impeachment and was irrelevant and prejudicial).

Allowing the evidence will prolong this trial and waste the valuable time and resources of the Court and all other participants, while adding absolutely nothing significant or valuable to the evidence.

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II.

CONCLUSION

Based on the above, it is respectfully requested that the Court exclude any and all evidence, testimony, references to testimony/evidence or argument, relating to a syringe found in decedent's clothes.

Dated: June 23, 2009

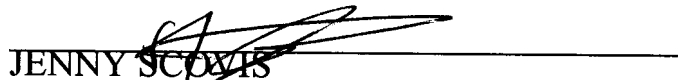
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GREGORY A. YATES
Co-Counsel for Plaintiffs,
TOMAS BARRERA, SR., individually and as a
Personal Representative of THE ESTATE OF
TOMAS BARRERA, JR.

Dated: June 26, 2009

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JENNY SCOVIS
Counsel for Plaintiff,
MARIA LAZOS, individually and as a Personal
Representative of THE ESTATE OF TOMAS
BARRERA, JR.